

**TEXAS DEPARTMENT OF INSURANCE**  
**NOTIFICATION OF WORKERS' COMPENSATION FILING BY**  
**THE NATIONAL COUNCIL ON COMPENSATION INSURANCE**  
***ITEM 03-TX-2014***

The National Council on Compensation Insurance (NCCI) filed *Item 03-TX-2014—Update Federal Mine Safety and Health Act References; Eliminate Per Passenger Seat Surcharge; Exclude Fraudulent and/or Noncompensable Losses from Incurred Losses (Retrospective Rating Plan and Forms)* (TDI ECase No. 7187) with the Texas Department of Insurance under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142. As proposed, *Item 03-TX-2014* would be in effect for policies with an effective date on or after 12:01 a.m. on January 1, 2015.

*Item 03-TX-2014* updates references to the Federal Mine Safety and Health Act of 1977 (Act), which amended the Federal Coal Mine Health and Safety Act of 1969, in the following rules in the *NCCI Retrospective Rating Plan Manual for Workers Compensation and Employers Liability Insurance (NCCI Retro Manual)* and in the following forms in the *Forms Manual of Workers Compensation and Employers Liability Insurance (NCCI Forms Manual)*:

- *NCCI Retro Manual* Rule I-B-1-f – Standard Premium
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement One-Year Plan (WC 42 05 03 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Three-Year Plan (WC 42 05 04 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Long-Term Construction Project (WC 42 05 05 A)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Nonratable Catastrophe Element or Surcharge (WC 42 05 10 A)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement One-Year Plan-Multiple Lines (WC 42 05 12 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Three-Year Plan-Multiple Lines (WC 42 05 13 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Long-Term Construction Project-Multiple Lines (WC 42 05 14 A).

*Item 03-TX-2014* also proposes to eliminate the per passenger seat surcharge premium to harmonize with *Item 02-TX-2014*, filed separately, which proposes to amend the *NCCI Basic Manual* to eliminate the per passenger seat surcharge. This surcharge applies to an insured's employees, other than the flight crew, while passengers on the insured's noncommercial,

nonscheduled aircraft. The current passenger seat surcharge is \$100 per passenger seat, subject to a maximum of \$1,000 per aircraft.

*Item 03-TX-2014* also proposes that aircraft losses be reported to the applicable classification code, instead of to Statistical Code 0088—Aircraft Operation—Passenger Seat Exposure, which is the code for the per passenger seat surcharge. With the aircraft losses reported under the applicable classification code rather than under Statistical Code 0088, the calculation of the policyholder’s experience modifier will include those losses, subject to the single-claim and multiple-claim loss limitations. The loss limitations also apply for the aircraft losses in the ratemaking process.

To eliminate the per passenger seat surcharge and to address reporting of aircraft losses accordingly, *Item 03-TX-2014* proposes amendments to the following rules and forms:

- Amend *NCCI Retro Manual* Rule 1-B-1-c – Incurred Losses to include losses involving passenger employees resulting from the crash of an aircraft under Classification Code 7421
- Delete the premium developed by the passenger seat surcharge under Classification Code 7421 from *NCCI Retro Manual* Rule 1-B-1-f – Standard Premium
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement One-Year Plan (WC 42 05 03 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Three-Year Plan (WC 42 05 04 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Long-Term Construction Project (WC 42 05 05 A)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Nonratable Catastrophe Element or Surcharge (WC 42 05 10 A)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement One-Year Plan-Multiple Lines (WC 42 05 12 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Three-Year Plan-Multiple Lines (WC 42 05 13 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Long-Term Construction Project-Multiple Lines (WC 42 05 14 A).

*Item 03-TX-2014* also proposes that incurred losses used in retrospective rating should exclude both fully fraudulent and noncompensable losses to be consistent with the exclusion of these types of claims for experience rating purposes. To eliminate fully fraudulent claims and

noncompensable claims from being part of incurred losses, *Item 03-TX-2014* proposes amendments to the following rule and forms:

- Amend *NCCI Retro Manual* Rule 1-B-1-c – Incurred Losses to exclude fully fraudulent and noncompensable losses
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement One-Year Plan (WC 42 05 03 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Three-Year Plan (WC 42 05 04 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Long-Term Construction Project (WC 42 05 05 A)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Nonratable Catastrophe Element or Surcharge (WC 42 05 10 A)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement One-Year Plan-Multiple Lines (WC 42 05 12 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Three-Year Plan-Multiple Lines (WC 42 05 13 B)
- *NCCI Forms Manual* – Texas Retrospective Rating Plan Premium Endorsement Long-Term Construction Project-Multiple Lines (WC 42 05 14 A).

*Item 03-TX-2014* proposes deletion of *NCCI Retro Manual* Rule 1-B-1-i – Statistical Plan to delete the definition of “Statistical Plan” to coincide with the transition to the *NCCI Statistical Plan for Workers Compensation and Employers Liability Insurance* that has been proposed to be effective for reporting of data for workers’ compensation policies with an effective date on or after 12:01 a.m. on January 1, 2015. (See Petition No. W-0514-03-I, filed on May 30, 2014.) “Statistical Plan” in *NCCI Retro Manual* Rule 1-B-1-i refers to the *Texas Workers’ Compensation Statistical Plan*, which will soon be obsolete.

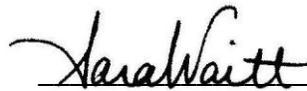
*Item 03-TX-2014* clarifies *NCCI Retro Manual* Rule 1-B-1-c – Incurred Losses to specifically exclude losses from the nonratable element codes and losses resulting from the application of the terrorism provision.

TDI staff does not expect the proposed changes in *Item 03-TX-2014* to affect premiums.

TDI has prepared this description of the proposed amendments. You may review a copy of NCCI’s filing in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

The commissioner may issue an order approving these amendments without a hearing. To comment on the filing or request a hearing, please submit two copies of your comments or request by 5 p.m., Central time, on July 25, 2014. Refer to TDI ECase No. 7187. Send one copy by mail to the Office of the Chief Clerk, Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [chiefclerk@tdi.texas.gov](mailto:chiefclerk@tdi.texas.gov). Send the other copy by mail to Nancy Moore, Team Lead, Workers' Compensation Classification and Premium Calculation, Texas Department of Insurance, Mail Code 105-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [nancy.moore@tdi.texas.gov](mailto:nancy.moore@tdi.texas.gov).

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Texas Department of Insurance